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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,480	08/14/2001	Morio Hirahara	P 282826	7898

909 7590 06/29/2004

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EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/928,480

Applicant(s)

HIRAHARA ET AL.

Examiner

Etienne P LeRoux

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites “a global food database.” Global is defined as “being or having to do with a business operation, system carried on or extending throughout all or much of the world.”<sup>1</sup> Furthermore, food is defined “as any substance taken into and assimilated by a plant or animal to keep it alive and enable it to grow and repair tissue.”<sup>2</sup> Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because the method of identifying, classifying, indexing, storing and retrieving food items on a global basis is not clearly explained.

Claim 1 recites “storing information about food to be managed together.” Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because an information store storing information about every food item on a global basis is not clearly explained.

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<sup>1</sup> Webster’s New World College Dictionary, Fourth Edition

<sup>2</sup> Webster’s New World College Dictionary, Fourth Edition

Claim 1 recites “a food identification code for every food.” Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because the method of making a food identification code for every food item on a global basis is not clearly explained. Furthermore, the information included in the food identification code is not clearly explained in the specification. Is expiration date included in the identification code? In particular, how is the identification code made available to each and every user on a global basis?

Claim 1 recites “food identification code input means for inputting the identification code affixed to the food.” Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because the process of affixing an identification code to the food is not clearly explained. In particular, during which stage of delivery of food from the farmer to the end-user is the identification code attached to the food item. It may be that multiple codes are applied to the same food item as it passes down through the supply chain.

Claim 1 includes a food storage apparatus that accesses the main data server and the user data server. Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because the process by which the food storage apparatus accesses the main data server and the user data server is not clearly explained.

Claim 1 includes a food processor (microwave oven) that accesses the user data server and the main data server. Based on applicant’s specification, one of ordinary skill in the art would not be able to make and use the invention because the process by which the food processor accesses the user data server and the main data server is not clearly explained.

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Independent claims 12, 15, 18, 20, 22, 27, 31, 35, 39, 40 and 41 include language similar to the above and thus are rejected for reasons similar to the above.

Dependent claims 2-11, 13, 14, 16, 17, 19, 21, 23-26, 28-30, 32-34, 36-38 and 42-44 are rejected for being dependent from a rejected base claim.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 includes “a main data server having a global food database storing information about food” and “a user data server having a local food database storing the information about the food to be managed by the user.” The scope of the invention is difficult to ascertain because the difference between the main data server and the user data server is unclear. In particular, the user data server stores information about food for every user. The user data server appears to be performing the same function as the main data server.

Claims 2-11 are rejected for being dependent from a rejected base claim.

***Art Rejection Precluded***

Due to the plurality of rejections under the first paragraph and second paragraph of 35 U.S.C. 112, an art rejection is not provided with this Office Action.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- 1) US Pub No 2002/0082924 issued to Koether discloses monitoring, data collection, and control of food service industry operations.
- 2) US Pat No 6,298,331 issued to Walker et al discloses an automated kitchen which determines time until expiration of a food product.
- 3) US Pat No 6,356,940 issued to Short discloses a nutritional planning system comprising a plurality of databases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.

The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Patent related correspondence can be forwarded via the following FAX number (703) 872-9306

Etienne LeRoux

June 25, 2004

